

APPEAL NO. 021568
FILED AUGUST 6, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on May 22, 2002, the hearing officer determined that the respondent's (claimant) injury of _____, includes a 2mm diffuse disc protrusion at L4-5; mild spondylosis at the right foramen at L3-4; multi-level facet joint degenerative changes; and lumbar radiculopathy; and that, based on the report of the designated doctor, the claimant's impairment rating (IR) is 15%. The appellant (carrier) has appealed the injury issue on the grounds of evidentiary insufficiency and also contends that, because the claimant's evidence failed to prove that her injury included those conditions, the 15% IR, which includes those conditions, must necessarily be incorrect. The claimant responded, urging affirmance.

DECISION

Affirmed.

The claimant testified that on _____, while unloading heavy bed frames from the back of the 18-wheeler he drove for the employer, he "felt something snap in his back" and had immediate pain, and that, despite being 60 years of age at the time, he had never previously had any back problems or medical treatment for such. The parties stipulated that the claimant sustained a compensable injury on _____. The carrier contended that the claimant's back injury on that date was limited to a sprain/strain injury, that the disputed spinal conditions were preexisting degenerative changes, and that the claimant failed to adduce expert medical evidence to prove that his preexisting spinal degeneration was aggravated by the compensable back injury. The claimant contended that his compensable injury included the disputed spinal conditions revealed by diagnostic testing in December 1999 and February 2000.

The evidence was in conflict on the disputed extent-of-injury issue. The designated doctor reported that he was evaluating the spinal impairment and loss of function present at the time of his examination and not making a determination on the extent of the claimant's injury; that his later letter of clarification explained the components of his rating; and that he adhered to the 15%. The hearing officer, who is the sole judge of the weight and credibility of the evidence, resolved such conflicts in the claimant's favor. We cannot say that the hearing officer's factual determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). As for the disputed IR issue, its resolution turned on the resolution of the extent-of-injury issue. Since we are affirming the hearing officer's resolution of the extent-of-injury issue, we likewise affirm the hearing officer's IR determination which is based on the designated doctor's report.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Judge